BEFORE THE ARBITRATOR

In the Matter of the Arbitration Between	
CITY OF MT. VERNON POLICE DEPARTMENT	**Case No. Sharon K. Imes, Arbitrator**
and	
CHAUFFEURS, TEAMSTERS AND HELPERS LOCAL UNION NO. 238	

APPEARANCES:

Simmons Perrine Moyer Bergman PLC, by **Robert Hatala,** appearing on behalf of the City and its Police Department.

Previant, Goldberg, Uelman, Gratz, Miller & Brueggeman, S.C., by **Sara Geenen,** appearing on behalf of the Chauffeurs, Teamsters and Helpers Union, Local No. 238.

BACKGROUND AND JURISDICTION:

The City of Mt. Vernon, referred to as the City or the Employer, and Chauffeurs, Teamsters and Helpers Local Union No. 238, referred to as the Union, are parties to an agreement effective July 1, 2011 until its expiration on June 30, 2012. In negotiating this agreement impasse was reached on four issues. Prior to submitting these issues to the arbitrator in interest arbitration, however, the Union agreed to the Employer's proposal regarding health and life insurance and sick leave. Consequently, the remaining issues at impasse concern wages (Article 8) and personal time (Article 14).

Pursuant to Section 20.22 of the Iowa Public Employment Relations Action (PERA), the undersigned was selected as arbitrator to select the most reasonable of the parties' final offers on each impasse item. The hearing was held in Mt. Vernon, Iowa at the City Hall on April 11, 2011 and the parties presented evidence and oral argument regarding their respective positions. At the conclusion of the hearing which was electronically transcribed, the Employer asked to submit an additional exhibit by no later than 5:00 p.m. on April 15. Permission was granted and the Union was told they would have an opportunity to respond to the exhibit if

they felt a response was needed. The exhibit was received by the arbitrator on April 13 and by the Union on April 14. The Union made no request to respond. Consequently, the hearing was officially closed on April 15, 2011.

In selecting the most reasonable of the parties' final offers on the impasse items, the Arbitrator has considered the evidence and arguments submitted by the parties at hearing as well as each of the four criteria cited in Iowa Code Section 20.22.7 and "any other relevant factors".

ISSUES IN DISPUTE:

The parties remain at impasse on wages and personal time. Following are their respective positions:

Employer's Final Offer:

Wages: 2.5% increase to be calculated on each individual pay classification.
Personal Time: Reduce personal time from 30 hours per year to 24 hours per year and eliminate carry over.

Union's Final Offer:

Wages: 3% across the board
Personal Time: Remain at 30 hours per year as provided for in the agreement.

POSITIONS OF THE PARTIES:

The Union maintains that a wage increase of 3% across the board is appropriate in light of its "give backs" in this agreement. In support of its position, it states that it has agreed to significant concessions including reducing the sick leave benefit carried over from 840 hours to 520 hours; contributing more toward the family health insurance premium and agreeing to 30 hours rather than 36 hours personal leave time. The Union also argues that a 3% wage increase is appropriate since the City's other bargaining unit received a 3% wage increase and 2 to 3.5% increases are common among similar bargaining units in the area which were determined to be comparables in a 2011 North Liberty arbitration decision. In addition, it contends that its unit members should continue to receive 30 hours of personal leave since the public works employees receive three paid personal leave days while the police unit receives only 2.5 personal leave days and since the Union has agreed to eliminate the carryover of personal leave days.

The Employer declares that its wage offer is more reasonable when increases among the external comparables are considered; when the increase in the CPI is considered; when the increase in the cost of health insurance is considered, and when it is recognized that the employees in the unit will be paid for the difference between the newly agreed upon hours of maximum sick leave carryover and the amount of carryover they have accumulated beyond that number.

Referring to the internal and external comparables, the City argues that it Is not appropriate to consider its DPW settlement as a 3% wage rate increase since the actual increase is less than 2% when it is recognized that the parties eliminated a bonus program which paid employees $520 each year in the previous two years and that the external comparables, similar-sized units in similar-sized communities, show that those bargains reached in 2010, with the exception of one comparable, reflect wage rate increases of 2.5% or less. The City also notes that the CPI increase in 2010 was 1.6% and only 2.1% when updated to February 2011 and declares that given this increase, its 2.5% wage rate proposal is more reasonable.

Challenging the Union's assertion that the unit's increase in premium payment makes its proposal the more reasonable one, the Employer states that employees went from $0 to $25 last year when the insurance premium rate went up 18% and that the additional $25 it agreed to contribute this year must be compared against the fact that the insurance rate is expected to increase another $120. Given these increases, the City maintains that when the employees did not absorb the total increase this year, they gained an almost 2% pay increase which results in a total package increase of somewhere between 4.5 and 5% if the employees also receive a 2.5% wage rate increase.

And, finally, the Employer rejects the Union's assertion that the reduction in carryover hours from 840 hours to 520 hours reflects a reduction in benefits and asserts that since the employees are being paid for those hours they have accumulated beyond the 520 hours which will become the maximum, they are actually being paid for the benefit. It also notes that those employees who have hours accumulated over 840 are being allowed to keep those hours for catastrophic leave purposes even though they will not be allowed to accumulate more hours. Based upon these facts, the Employer charges that its wage rate proposal and not the Union's is more reasonable.

With respect to its personal leave proposal, the Employer declares that it is seeking this change for three reasons. The first is that no other comparable city provides a 30 hour benefit to its employees. The second is that it wishes to match the benefit its DPW employees receive and the third is that differences in shifts and the number of hours for each shift makes it easier for the police unit to take care of its needs than those in the DPW unit.

DISCUSSION:

Both parties rely upon **comparables** in making a case for the reasonableness of their respective positions. They do not agree upon an appropriate group of comparables, however. The Union seeks to adopt those communities which were declared comparable in a 2011 interest arbitration decision involving North Liberty and proposes as a secondary set of comparables several communities similar in size to Mt. Vernon which are located mostly in the eastern half of the State. The City proposes a comparison of similar-sized communities throughout the State. Neither proposed set of comparables realistically reflects the demographics normally considered when selecting similar communities as comparables.

While another arbitrator concluded that Coralville, Hiawatha, Iowa City, Marion and Mt. Vernon were similar to North Liberty since they were within geographic proximity to North Liberty and comprise a labor market for local law enforcement officers, this Arbitrator finds Iowa City, Coralville and Marion far larger communities than Mt. Vernon and without other data to establish similar demographics rejects them as comparables. Further, while the Employer's proposed comparables are more similar in size, many of them share very little in common with Mt. Vernon which is located in a metro area that includes Iowa City and Cedar Rapids; lack data as to any other comparability, and do not comprise a labor market for local law enforcement officers since they are not geographically near Mt. Vernon.

For purposes of comparability, the undersigned selected North Liberty, and Hiawatha, as primary comparables and Williamsburg, Independence, Vinton, Manchester, and Evansdale as a secondary set. Other than similarity in size, there is very little data to establish these communities as comparables. North Liberty, Hiawatha and Williamsburg were included in the comparables selected by the arbitrator in the 2011 North Liberty interest arbitration decision based upon the fact that they comprise a relevant labor market and are geographically near North Liberty. This Arbitrator agrees with that conclusion and finds they share the same

relationship to Mt. Vernon. In addition, these three communities are similar in size to Mt. Vernon. Independence, Vinton, Manchester, and Evansdale were also considered since they, too, are relatively near to Mt. Vernon geographically and are similar in size.[1] They are not so close, however, that they comprise a local labor market. Nonetheless, they provide some insight as to the reasonableness of the parties proposed final offers regarding wage rate increases.

With respect to their **wage rate** proposals it is concluded that the Union's offer is more reasonable. This finding is made after considering the wage rate increase the Employer gave its other bargaining unit; the wage rate increases granted similar employees performing similar work in those communities found to be comparable, the 2009-10 increase in the Consumer Price Index, and the concessions that the Union has made during negotiations of this contract.[2]

The Employer argued that the 3% wage increase it granted the employees in its other bargaining unit does not actually reflect a 3% wage increase since the parties agreed to eliminate a performance bonus that had been included in previous contracts which resulted in their being paid $520 in each of the previous two years. While there is no dispute that the employees in this bargaining unit were paid $520 in each of the last two years, it is also recognized that they were paid this amount since the parties could not agree upon specific evaluation standards and that if standards had been agreed upon, they may have been paid far less since the program was a merit-based program. Consequently, it cannot be concluded that the increase in wages the Employer granted the public works employees was as compensation for giving up the merit-based performance bonus.

Further, the Employer's buyout of the hours employees in this unit accumulated over 520 hours cannot be considered as reason to find the Employer's wage rate proposal more

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[1] While Williamsburg is included in the primary set of comparables, it is recognized that their collective bargaining agreement covers all employees, not just police. In addition, Dyersville was considered as a comparable until a review of collective bargaining agreements posted on the Iowa PERB site indicated there is no collective bargaining agreement covering a police unit.

[2] These considerations were made based upon the fact that the Iowa Code directs the Arbitrator to consider the parties' past collective bargaining agreements; the comparison of wages, hours and conditions of employment of employees performing comparable work as well as factors peculiar to the area and the classifications involved; the interests and welfare of the public together with the employer's ability to finance the economic adjustments and the effect those adjustments will have on the normal standard of service and the power of the employer to levy taxes and appropriate funds for the conduct of its operations in determining the reasonableness of the offers and the evidence submitted by the parties as it relates to these factors.

reasonable since the parties agreement to reduce the hours from 840 to 520 means that employees in this unit will lose the benefit of accruing sick leave beyond 520 hours in future years. This is a significant reduction in a benefit to these employees. Given this fact, as well as the fact that the merit-based performance bonus eliminated from the public works employee's bargaining agreement does not constitute a specific loss in wages, the Employer's argument is not persuasive.

The Employer also declares that the 3% wage increases granted among the external comparables should be considered less relevant since they were agreed to prior to 2010 when the full impact of the 2008-09 economic downturn was not known and that those agreements among the comparables which were reached later reflected a lower increase in wages. This argument is also not persuasive. While it may be true that the full impact of the 2008-09 economic downturn was not known when early or multi-year settlements were reached, although the record lacks evidence to support the Employer's assertion, it is highly doubtful that the parties to these agreements were not aware that economy had taken a serious downturn when the agreements were reached. In general, the increases agreed upon by the parties during negotiations reflect the status of the economy in the area; the parties' acknowledgement of the wage increase needed to keep pace with the cost of living in the area, and the employer's ability to absorb such increases based upon the local economic conditions. Consequently, the increases bargained in early 2010 are as relevant as those bargained later in 2010. Further, when the external comparables, both the primary and secondary sets, are considered, the Union's proposed 3% increase in wages is supported as the more reasonable one.

The Employer's argument that its 2.5% wage increase proposal is more reasonable given the increase in the 1.6% in the 2009-10 Consumer Price Index "CPI" would be persuasive particularly since the Employer indicates that the February, 2011 CPI was reflected as 2.1% if the settlements reached among the external comparables more closely approximated this number. While this Arbitrator understands that parties tend to argue the reasonableness of their wage proposals based upon the numbers reflected in the CPI, this Arbitrator finds that the settlements reached in the same geographical area are a more accurate measurement since they generally reflect what the parties believe is the cost of living in the area. Consequently,

while the Employer's offer appears to be more reasonable given the overall increase in the CPI during 2010, this comparison is not determinative of the reasonableness of the two proposals.

The last argument regarding the reasonableness of the wage rate proposal raised by the Employer is that its proposal should be found to be more reasonable since its expected increase in the cost of the employees' health insurance benefit is not absorbed by the Union's agreement to contribute an additional $25 toward the premium payment and since the difference between that contribution and the expected increase constitutes a pay increase to the employees of more than 2%. While this Arbitrator recognizes the fact that previous bargains reached between employers and employees has resulted in additional costs to the employers as health insurance costs continue to rise, the record is void of evidence which shows that this employer's rise in the cost of insurance differs from increases other employers among the comparables are experiencing, and should therefore be considered in determining the reasonableness of the wage rate proposals. Further, the fact that the Union agreed to move from no contribution to a $25 contribution toward the cost of health insurance in the last contract and has now agreed to increase its contribution by another $25 cannot be ignored since the Union's contribution toward this cost shows not only that the Union recognizes its need to share in the rising cost of health insurance premiums but results in an actual reduction in the paycheck each employee receives if no wage increase were granted and effectively reduces the Union's 3% wage rate increase proposal to something less than 3%. Consequently, the Employer's argument based upon increased health insurance premium costs is not persuasive with respect to the reasonableness of the wage rate proposals.

At hearing, the Union agreed to the Employer's proposal to eliminate the 32-hour personal leave carryover allowance so the only issue remaining concerning the **personal day** proposals is whether the current 30 hours of personal leave employees receive should be reduced to 24 hours. Although the Employer offers no *quid pro quo* for buying out this benefit and provides no evidence that the current hours of personal leave create a problem that must be resolved, its proposal is supported not only by the only internal comparison but by the external comparables and, therefore, is considered more reasonable. While the Union posits that the reduction in hours would result in the public works employees receiving 3 personal leave days while the police would receive only 2.5 personal leave days, its assertion is a matter

of semantics since the record indicates that if the Employer's offer is found to be more reasonable, both the public works employees and those in the police bargaining unit would receive 24 hours of personal leave.

A review of the past collective bargaining agreements between the parties to this dispute shows that employees in this bargaining unit received three personal days (or twenty-four hours of personal leave) in the 1998-2001; the 2001-2004 and the 2004-07 agreements and that the change to 30 hours occurred when this unit agreed to work 10 hour shifts in the 2007-10 agreement. While it may have made sense to the parties to grant 30 hours of personal leave time when the unit agreed to work 10-hour shifts based upon a premise that employees should receive a "day" of personal leave and a shift is considered a day, the fact that these employees worked no more hours per week than before must not have been considered. Consequently, it makes no sense that the police unit employees should receive more hours of personal leave than those received by the public works employees.

Further, the Employer correctly states that the external comparables also do not support this unit receiving 30 hours of personal leave time. While the Employer's comparables were not used, a review of those communities considered comparable in this dispute confirm the Employer's assertion that no other similar-sized unit, with the exception of Evansdale, receives 30 hours personal leave time and that most receive less.

In summary, based upon the criteria defined in Iowa Code, Section 20.22.7, the evidence and arguments advanced by the parties and the above discussion, the following **Award** is made:

Wages: Union's Offer

Personal Leave: Employer's Offer

Sharon K. Imes

Sharon K. Imes, Arbitrator

April 29, 2011

CERTIFICATE OF SERVICE

I certify that on the 29th day of April, 20 11, I served the foregoing Award of Arbitrator upon each of the parties to this matter by (_____ personally delivering) (_____ mailing) a copy to them at their respective addresses as shown below:

Robert Hatala - 115 3rd Street S.E., Cedar Rapids, Iowa
Sara Geenan - 1555 N. River Center Drive, Suite 202
Milwaukee, WI 53212

I further certify that on the 29th day of April, 20 11, I will submit this Award for filing by (_____ personally delivering) (_____ mailing) it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, IA 50319.

Sharon K. Imes

SHARON K. IMES, Arbitrator
(Print Name)